

Application No.: 10/748095

Case No.: 59489US002

REMARKS

Reconsideration of the application is requested.

Claim Status

Claims 1 to 19 are pending. No claims are currently canceled, withdrawn from consideration, amended, or added.

§102 Rejection

Claims 1-19 are rejected under 35 USC §102(a) as being anticipated by U.S. Patent Application Publication No. 2003/0236340 (Kubicek et al.).

The reference and instant application are directed to mutually exclusive classes of paints. The reference discloses paint compositions having a pigment volume concentration that is less than the critical pigment volume concentration. See, for example, the last three lines of paragraph [0005] and middle portion of paragraph [0006]. In contrast, the present invention concerns a distinct class of paints having a pigment volume concentration that is equal to or greater than its critical pigment volume concentration as recited in independent claims 1 and 15.

Accordingly, Applicants respectfully submit that the rejection under 35 USC §102(a) has been overcome and should be withdrawn.

§103 Rejection

Claims 1-19 are rejected under 35 USC §103(a) as being obvious over Kubicek et al..

As discussed above, among the recitations in each of independent claims 1 and 15 is that the paint composition has a pigment volume concentration equal to or greater than its critical pigment volume concentration. The same recitation applies to each of the remaining claims which all depend directly or ultimately from either claim 1 or 15.

In contrast, the paint compositions disclosed in Kubicek et al. have a pigment volume concentration less than their critical pigment volume concentration.

The paint compositions claimed in the present application are distinct from those claimed in Kubicek et al. Among other distinctions, paint compositions of the present invention have a

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pigment volume concentration that is equal to or greater than their critical pigment volume concentration. Many physical properties of paint change abruptly at the paint's critical pigment volume as discussed at paragraph [0064]. The reference goes on to teach that for this reason, the pigment volume concentrations ("PVC") of the compositions of the reference is less than their critical pigment volume concentrations ("CPVC"), see paragraph [0066]. Thus, it was unobvious to those skilled in the art that incorporation of the claimed additives would impart the improved stain and soil resistance which has been surprisingly obtained by Applicants.

For these reasons, Applicants respectfully submit that the rejection under 35 USC §103(a) has been overcome and should be withdrawn.

Conclusion

In view of the above, it is submitted that the application is in condition for allowance.

Respectfully submitted,

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